

RTO WEST
INSURANCE, INDEMNIFICATION AND LIMITATION
OF LIABILITY AGREEMENT

This draft represents the proposed Insurance, Indemnification and Limitation of Liability Agreement developed by the filing utilities for inclusion in their planned March 1, 2002 filing to FERC. It is a work in progress and is subject to change. The filing utilities are releasing this draft to provide an opportunity for stakeholder review and comment. Interested stakeholders may provide comments and input on this draft at the RRG meetings scheduled for February 11 and 12 or in writing. Comments in writing should be sent via email by February 15 at the latest to Bud Krogh at ekrogh@serv.net and Chris Elliott at chrisrtowest@earthlink.net.

EXHIBIT M
INSURANCE, INDEMNIFICATION AND LIMITATION
OF LIABILITY AGREEMENT

NOTE: Revisit this agreement for Canadian participation.

This Agreement (the “Limitation of Liability Agreement” or “Agreement”) is made and entered into as of the ____ day of _____, _____, by and between certain parties executing this Limitation of Liability Agreement, hereinafter referred to individually as “Party” and collectively as “Parties,” who are interconnected to the transmission system of a regional transmission organization (“RTO West”) formed pursuant to an order of the Federal Energy Regulatory Commission (“FERC”) in Docket No. RM99-2-000 and commonly referred to as Order 2000, and RTO West, a Washington nonprofit corporation.

WHEREAS, FERC has directed transmission owners to take certain actions with respect to forming and participating in a regional transmission organization with other transmission owners across wide geographic areas throughout all parts of the United States, among both FERC jurisdictional and nonjurisdictional transmission owners; and

WHEREAS, the generation owners, distribution owners and transmission owners of the Electric Systems who are participants in RTO West will be entering into various agreements with RTO West to implement a regional transmission organization pursuant to Order 2000; and

WHEREAS, some or all of the Parties are members of regional power pool organizations that have developed electric utility practices which may or may not be consistent between and among the various regional power pools; and

WHEREAS, various other agreements concerning Electric Disturbances and loss or damage to Electric Systems exist between and among the generation owners, distribution owners and transmission owners; and

WHEREAS, a portion of the collective assets that presently constitute the Electric Systems of the geographic area to be served by RTO West will be placed under the control of RTO West, and a portion of those same assets will remain under the control of generation owners, distribution owners and transmission owners; and

WHEREAS, the Parties wish to provide for an agreement concerning liability between and among the Parties for certain events arising from their electric operations, which agreement addresses existing agreements covering assets not subject to the control of RTO West and new agreements formed to implement RTO West;

NOW, THEREFORE, in consideration of the mutual benefits to the Parties and the benefits set forth in the recitals above, the Parties agree as follows:

1. Definitions.

For purposes of this Agreement, capitalized terms not defined elsewhere in this Agreement shall have the definitions specified in Attachment 1 to this Agreement.

2. Term.

2.1 FERC Filing. Those Parties that are subject to FERC jurisdiction shall cause this Agreement to be promptly filed with FERC. If FERC accepts this Agreement for filing, this Agreement shall become effective upon its acceptance for filing or approval by FERC, without change unacceptable to a Party. If FERC's acceptance for filing or approval of this Agreement

is, as a result of rehearing or judicial review thereof, subsequently revised or modified in a manner unacceptable to a Party, this Agreement shall be deemed void ab initio as to such Party. Any such revision or modification of this Agreement shall be deemed unacceptable to a Party only if that Party provides notice to the other Parties within thirty (30) days of issuance of the applicable FERC action or judicial order that such action or order is unacceptable. If FERC, by exercise of the rule of reason, elects not to accept this Agreement for filing, this Agreement shall become effective upon receipt of notice from FERC to such effect.

2.2 Termination. No Party that executes a Transmission Operating Agreement may terminate its participation in this Agreement unless it has exercised its right to terminate each Transmission Operating Agreement to which it is a party with RTO West. Such [Transmission, Generation or Distribution Entity] may terminate this Agreement by giving RTO West written notice that such Party has terminated any such agreement. Termination of this Agreement shall be effective upon satisfaction of the conditions above, and RTO West shall notify other Parties to this Agreement of such termination. Such termination by a Party shall be effective whether or not RTO West fulfills its obligation to notify all other Parties. Such termination shall be effective as to events which occur on or after the date of termination, and all rights and obligations of a terminating Party as to events occurring prior to the effective date of termination shall be preserved until satisfied. RTO West shall remain a Party to this Agreement so long as one or more other Parties continue their participation.

3. Claims of Retail or Direct Service Customers.

3.1 Applicability. This section applies to electric service outage claims of retail or direct service end use customers.

3.2 Indemnification. The [Transmission, Generation or Distribution Entity] shall indemnify RTO West for judgments or settlements, if any, obtained by or on behalf of the [Transmission, Generation or Distribution Entity's] retail or direct service end use customers arising out of or relating to electric service outages or recovery from such outages caused by the failure of the [Transmission, Generation or Distribution Entity] to inspect, operate or maintain its Electric System in accordance with this Agreement. RTO West shall indemnify the [Transmission, Generation or Distribution Entity] for any judgments or settlements obtained by or on behalf of retail or direct service end use customers, other than the [Transmission, Generation or Distribution Entity's] own such customers, arising out of or relating to electric service outages or recovery from such outages, unless caused by the Willful Misconduct of the [Transmission, Generation or Distribution Entity]. This paragraph does not create a liability for the [Transmission, Generation or Distribution Entity] or RTO West to a retail or direct service customer or other third person, but requires indemnity where such liability exists.

4. Claims Arising from Contact with Electric System

4.1 Applicability. This section applies to Contact Claims.

4.2 RTO West Liability. RTO West shall be liable for and shall indemnify, defend and hold harmless the [Transmission, Generation or Distribution Entity] from Contact Claims arising from contact with any Electric System that RTO West operates. Notwithstanding any other provision of this Agreement, RTO West shall indemnify, defend and hold harmless the [Transmission, Generation or Distribution Entity] from: (i) Contact Claims based upon alleged

inadequacy of interconnection standards or operating standards, which the [Transmission, Generation or Distribution Entity] can establish it would not otherwise have followed, and (ii) Contact Claims arising from contact with transmission lines while such lines are operated by the [Transmission, Generation or Distribution Entity] at thermal ratings or other levels caused or required by RTO West.

4.3 Executing Transmission Owner Liability. The [Transmission, Generation or Distribution Entity] shall be liable for and shall indemnify, defend and hold harmless RTO West from Contact Claims arising from contact with any Electric System that the [Transmission, Generation or Distribution Entity] operates. In furtherance of the foregoing indemnification and not by way of limitation thereof, each Party hereby waives any defenses it otherwise might have under applicable workers' compensation laws.

4.4 Joint Operations. In the event that: (i) RTO West and the [Transmission, Generation or Distribution Entity] are operating or maintaining a portion or portions of an Electric System; (ii) the Contact Claim arises from the negligence, gross negligence or Willful Misconduct of such Parties; and (iii) the contact is with such portion of the Electric System, such Parties shall bear all costs and expenses of defending and paying any judgment or settlement of the Contact Claim in proportion to their fault.

4.5 Compliance. In the event of contact with any portion of the Electric System reasonably believed to have resulted in Bodily Injury or Property Damage, the Parties will perform as required in Section 6.

5. Environmental Claims.

5.1 Applicability. This section applies to environmental claims.

5.2 Hold Harmless Clause. The Parties, shall defend, indemnify and hold each other harmless from and against any and all claims, causes of action, demands and liability, including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and attorneys' fees (at trial and on appeal) arising from the existence or discovery of any Hazardous Substance on or from their respective Electric Systems, or the migration of any Hazardous Substance from such Electric System to other properties or released into the environment, unless such Hazardous Substance on release is caused by and results from the indemnitee's own negligence or activity. If due to the concurrent negligence of the Parties, each Party agrees to indemnify the other according to their respective percentage of fault.

6. Claims Procedure.

6.1 Applicability. This section applies to all claims.

6.2 Claims Procedure. In the event any claims are made against a Party to which the provisions of this Agreement may apply, or with the occurrence of any event from which it is reasonably anticipated that such claims may be made, the Parties agree that:

6.2.1 Preservation of Evidence. In the event of any such claims or events from which third-party claim(s) are anticipated, a Party shall take such immediate efforts as are necessary to preserve evidence and/or protect against default judgment and shall provide immediate notice to RTO West's General Counsel at the address designated for such purpose, with a copy to the broker of record with respect to the insurance policy described in Section 9. RTO West's General Counsel shall give notice to insurance carrier(s).

6.2.2 RTO West's General Counsel Responsibility. The Parties anticipate that RTO West's General Counsel shall have the responsibility to review any such claims; take

actions as necessary to properly investigate, evaluate, and defend such claims; and make recommendations regarding payment, rejection or compromise of such claims.

6.2.3 Legal Action. In the event of legal action resulting from the denial of such claim, the Parties anticipate that RTO West's General Counsel shall recommend to the Board suitably qualified legal counsel to defend such claims. Each Party against whom a claim is made and denied shall be allowed to defend itself against such claims to the extent it deems necessary and appropriate.

6.2.4 Joint Defense. To the extent permitted by law, including, but not limited to, the provisions of Section 17.7 herein, the Parties agree, except when there is an irreconcilable conflict of interest, (i) to consent to joint representation in defense of such legal action, and (ii) to make good-faith efforts to enter into a mutually acceptable joint representation agreement to facilitate cooperation, information sharing, and protection of attorney-client privilege and work product in connection with the joint defense.

7. Claims for Damage to Electric System

7.1 Applicability. This section applies to claims for damages among Parties arising from damage to an Electric System and constitutes an agreement among those Parties.

7.2 Duty. For purposes of this Section 7, the [Transmission, Generation or Distribution Entity] shall design, construct, operate, maintain, and use its Electric System in conformance with Good Utility Practice; and RTO West shall operate, maintain, and use the Electric System it operates in conformance with Good Utility Practice. Each Party shall exercise Good Utility Practice to minimize Electric Disturbances, including, but not limited to, abnormal

flow of power, which may damage or interfere with an Electric System or have an effect on its customers:

7.2.1 Minimize Electric Disturbance. To minimize Electric Disturbances, including, but not limited to, the abnormal flow of power, which may damage or interfere with a Party's Electric System or any Electric System connected with such Party's Electric System, and

7.2.2 Party's Own Electric System. To minimize the effect on its Electric System, and on its customers, of Electric Disturbances originating on its own or another Electric System.

7.3 Limitation of Liability. EXCEPT AS PROVIDED IN SECTIONS 7.6 AND 7.8, EACH PARTY HERETO WAIVES ANY AND ALL CLAIMS, INCLUDING CLAIMS FOR CONSEQUENTIAL DAMAGES, AGAINST ALL OTHER PARTIES HERETO FOR LOSS OR DAMAGE TO ITS ELECTRIC SYSTEM. RTO WEST WAIVES ANY AND ALL CLAIMS, INCLUDING CLAIMS FOR CONSEQUENTIAL DAMAGES, AGAINST ALL PARTIES HERETO FOR LOSS OR DAMAGE TO THEIR ELECTRIC SYSTEMS. EACH PARTY WAIVES RIGHTS TO SUBROGATION AND RELEASES EACH OTHER PARTY, ITS DIRECTORS, OFFICERS, AND EMPLOYEES, FROM ANY SUCH LIABILITY.

7.4 Insurance. Each Party represents that the provisions of Section 7.3 are not inconsistent with any insurance policy that such Party now holds, and each Party agrees that any insurance contract that it may hereafter enter into shall not be knowingly inconsistent with the provisions of said Section 7.3.

7.5 Willful Misconduct. The provisions of Section 7.3 do not apply to loss or damage resulting from Willful Misconduct.

7.6 Default Action. The provisions of Section 7.3 do not apply to loss or damage resulting from action taken or not taken by a Party, which action or nonaction has previously been determined by arbitration to be a default under Section 7.2, and which occurs or continues beyond the time specified in such arbitration award for curing such default or, if no time to cure is specified, which, after the date of the award, occurs or continues beyond a reasonable time to cure such default. Such Party agrees to pay for such loss or damage which occurs while such Party is a Party to this Agreement. An action or non-action under Section 7.6 is one taken by a director or officer, or any employee who has management or administrative responsibility affecting the Party's performance under this Agreement, namely an employee who is responsible for one or more of the functions of planning, organizing, coordinating, directing or supervising the Party's performance under this Agreement.

7.7 Employee Action. An action or nonaction under Section 7.6 is one taken by a director, officer, or any employee who has management or administrative responsibility affecting the Party's performance under this Agreement, namely, an employee who is responsible for one or more of the functions of planning, organizing, coordinating, directing or supervising the Party's performance under this Agreement.

7.8 Loss or Damage. Unless otherwise expressly agreed to by the Parties, in the limited instance that RTO West has not issued an operating instruction, and if, as a result of the negligence of RTO West, the [Transmission, Generation or Distribution Entity] incurs Property Damage to its Electric System, RTO West shall be liable, subject to defenses of comparative fault, for reimbursing the cost of repairing such Property Damage, but such liability shall not exceed the greater of two million dollars (\$2,000,000) or the amount of its self-insured retention under its general liability insurance program for the total aggregate of all such claims resulting

from any one occurrence. Written notice of claim asserted under this section must be made within sixty (60) days and must be fully presented and documented for payment within one hundred eighty (180) days of such event.

7.9 Relationship to WIS Agreement. As between parties to the Agreement Limiting Liability Among Western Interconnected Systems (the “WIS Agreement”), nothing in this Agreement shall amend or modify the obligations of such agreement. In the event of a conflict between this Agreement and the WIS Agreement, the WIS Agreement shall control; provided, however, that the arbitration provisions of the WIS Agreement shall be suspended and the arbitration provisions of this Agreement shall be used in lieu thereof as between parties that are Parties to the WIS Agreement and this Agreement.

7.10 Enforcement. Except as provided in Section 7.8, it is the intent of this Agreement that the obligations of Section 7.2 shall be enforceable only indirectly by the risk of liability for loss or damage resulting from failure to comply with an arbitration award as provided in Section 7.6. Accordingly, the obligation to arbitrate may be enforced by appropriate judicial action, and loss or damage resulting from failure to comply with an arbitration award may be recovered as and to the extent provided in Section 7.6, but otherwise no action shall be brought to enforce the obligations of Section 7.

8. Limitation of Liability.

8.1 Applicability. This section applies to claims between RTO West and other Parties.

8.2 Consequential Damages. EXCEPT AS MAY BE OTHERWISE PROVIDED UNDER THE RTO OPEN ACCESS TRANSMISSION TARIFF AND IN SUBSECTION 5.2,

THE EXECUTING TRANSMISSION OWNER SHALL NOT BE LIABLE (WHETHER BASED ON CONTRACT, INDEMNIFICATION, WARRANTY, TORT, STRICT LIABILITY OR OTHERWISE) TO RTO WEST FOR ANY CONSEQUENTIAL DAMAGES.

8.3 Direction, Instruction or Requirements of RTO West. Notwithstanding any other provision of this Agreement, the [Transmission, Generation or Distribution Entity] shall not be liable to RTO West and RTO West will indemnify, hold harmless and defend the [Transmission, Generation or Distribution Entity] for any costs, charges, losses, liabilities, payments, expenses or other obligations arising out of third-party claims relating to an action taken by the [Transmission, Generation or Distribution Entity] pursuant to the direction, instruction or requirements of RTO West.

8.4 Claims Not Otherwise Covered. With respect to claims not otherwise addressed herein, in the event that: (i) RTO West and the [Transmission, Generation or Distribution Entity] are operating or maintaining a portion or portions of an Electric System and (ii) a claim arises from the negligence, gross negligence or Willful Misconduct of both such Parties, such Parties shall bear all costs and expenses of defending and paying any judgment or settlement of the claim in proportion to their fault.

9. Insurance.

9.1 Applicability. This section applies to insurance requirements for RTO West.

9.2 Maintenance of Insurance Coverage. Throughout the term of this Agreement, RTO West shall maintain insurance coverage consistent with prudent industry practice and that, at a minimum:

9.2.1 General Liability Coverage. Provides for general liability coverage with pollution liability endorsement and limits of not less than three hundred million dollars (\$300,000,000) and separate errors and omissions coverage limits of not less than three hundred million dollars (\$300,000,000);

9.2.2 Per-Occurrence Self-Insured Retention. Provides for per-occurrence self-insured retention of not more than two million dollars (\$2,000,000);

9.2.3 Endorsement. Provides an agreement or endorsement under which the insurance cannot be terminated, canceled, allowed to expire, non-renewed, or materially altered without ninety (90) days' prior written notice to RTO West and provides that such policy is primary over any other insurance;

9.2.4 Insurer. Provides that RTO West's insurer shall be bound by any waivers of the insurer's rights of subrogation granted by RTO West; and

9.2.5 Additional Parties. Names the [Transmission, Generation or Distribution Entity] as an additional insured under such insurance.

9.3 Review of Insurance Requirements. Insurance requirements shall be reviewed by the RTO West Board on an annual basis for consistency with prudent industry practice, but shall be no less than the above-referenced specific coverage and limits. Alternative risk financing arrangements sufficient to cover these responsibilities will require written approval of a two-thirds (2/3) majority of Participating Transmission Owners.

9.4 Nonauthority. RTO West may not consent to or allow the insurance required under Section 9.2 to be terminated, canceled, allowed to expire or materially altered without written approval of a two-thirds (2/3) majority of Participating Transmission Owners.

Nonrenewal of insurance shall also not occur without RTO West's providing at least sixty (60) days' advance notice to the Parties to this Agreement.

10. Relationship to Other Tariffs.

Each Party to this Agreement agrees that it will not propose any tariff or rate schedule with any state or federal regulatory agency that seeks to impose, by contract, as a condition of service, any liability that is released or limited by this Agreement, unless the Party losing the protection of this Agreement consents in writing to the proposed tariff or rate schedule. Failure of a Party to intervene or protest shall not constitute consent.

11. Parties' Own Insurance Coverage.

A Party shall be solely responsible for and shall bear all of the costs of claims by its own employees, contractors or agents arising under and covered by any workers' compensation law. A Party shall furnish, upon request and at its sole expense, such insurance coverage and such evidence thereof, or evidence of self-insurance, as is reasonably necessary to meet its obligations under this Agreement.

12. Contribution.

As between RTO West and other Parties, no such other Party shall have any liability arising out of or obligation to make payment or contribution for any loss of or damage to property or any special, indirect, incidental, consequential, punitive, exemplary or direct damages (including, but not limited to, loss of profits and loss of use of property) arising out of or resulting from any disruption, interruption, suspension, curtailment or fluctuation of service to

be provided by RTO West or arising out of or resulting from RTO West's operation, maintenance or use of any transmission facilities controlled by RTO West. With respect to any amount which, pursuant to this Agreement, is to be paid by or contributed to pro rata by the Bonneville Administrator or any other federal power marketing authority and other Parties, no such other Party shall have any obligation to make any such payment or contribution, if and to the extent that the Bonneville Administrator or any other federal power marketing authority does not make its pro rata payment or contribution of such amount.

13. Governing Law.

13.1 With respect to claims between a Party and a federal agency pursuant to this Agreement, federal law shall apply.

13.2 With respect to claims between or among any two or more Parties whose principal offices are all located within a single state, the law of that state shall apply.

13.3 With respect to claims between or among two or more Parties whose principal offices are located in more than one state, the laws of the State of Washington shall apply.

14. Assignment.

Any rights or obligations under this Agreement may be assigned only in connection with a transfer of the assets to which they relate. In such event, the assignee shall be bound by such rights and obligations as if such assignee had originally been a party to this Agreement.

15. Arbitration.

Any disputes arising under this Agreement between the Parties, including, but not limited to, a dispute arising under Section 7, shall be submitted to arbitration pursuant to the arbitration provisions of the Transmission Operating Agreement which are attached to this Agreement as Attachment 2; provided, however, that Sections 1.1.2, 1.2.2(ii) and (iii), 1.4.1.2, 1.4.2.1, 1.4.2.2, and 1.4.5 or other enforcement provisions of Attachment 2 shall not apply to disputes under Section 7 to the extent that remedies are limited by Section 7.10.

16. Execution and Delivery.

16.1 This Agreement may be executed in any number of counterparts, in which case all such counterparts shall be deemed to constitute a single document with the same force and effect as if all Parties hereto having signed a counterpart had signed all the other counterparts.

16.2 An executed copy of this Agreement shall be deposited by each Party with the Office of General Counsel of RTO West.

17. Miscellaneous.

17.1 Any undertaking by a Party under this Agreement shall not constitute the dedication of the system, or any portion thereof, of any Party to the public or to any other Party.

17.2 Nothing in this Agreement shall require a generator under the Generation Integration Agreement or any other Party to take any action:

17.2.1 that is not within the physical capabilities of the Party's Electric System (or any part of another Party's Electric System that the applicable Party has the legal right to cause to comply with this Agreement); or

17.2.2 that it in good faith believes will create serious and immediate risks to human health or safety; provided, however, that interruption of transmission service shall not in itself necessarily be deemed to create serious and immediate risks to human health or safety; or

17.2.3 that it in good faith believes will create an immediate risk of serious damage to facilities or equipment within its Electric System or will cause it to operate any part of its Electric System in an unsafe manner; or

17.2.4 that would violate any provision of the reliability criteria, standards, guidelines and operating procedures of NERC or the WSCC, any FERC or state regulatory agency licenses with which it is obligated to comply, any applicable Nuclear Regulatory Commission licenses or requirements, the terms of any applicable permits issued by a governmental authority or any applicable governmental laws or regulations; or

17.2.5 that conflict with any nonpower requirements with which the Party is obligated to comply (including, without limitation, any obligations under environmental laws, regulations, court and administrative orders or biological opinions); or

17.2.6 to comply with an operating instruction issued by RTO West when such operating instruction is not within RTO West's authority under the RTO West tariff.

17.3 Any notice, demand or request in accordance with this Agreement, unless otherwise provided in this Agreement, shall be in writing and shall be deemed properly served, given or made to the address of the receiving Party set forth below: (1) upon delivery, if delivered in person; (2) upon execution of the return receipt, if sent by registered United States or Canadian mail, postage prepaid, return receipt requested; or (3) upon delivery, if delivered by prepaid commercial courier service. Any notice, demand or request required to be given to another Party other than RTO West for purposes of Section 15 (Arbitration) shall be directed to

the address in such Party's corresponding Limitation of Liability Agreement on file with RTO West.

17.3.1 The address of RTO West shall be:

Attn: _____

The address of the [Transmission, Generation or Distribution Entity] shall be:

Attn: _____

17.3.2 Either Party may at any time, by notice to the other Party, change the designation, address or telecopy number of the person specified to receive notice on its behalf.

17.3.3 Any notice of a routine character in connection with service under this Agreement or in connection with the operation of facilities shall be given in such a manner as the Parties may determine from time to time, unless otherwise provided in this Agreement.

17.4 In executing this Agreement, each Party reserves any and all defenses it is entitled to assert under applicable law. This Agreement shall not be interpreted to waive any such defenses.

17.5 Nothing contained in this Agreement shall be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation, or

liability on or with regard to either of the Parties. Each Party shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement. All rights of the Parties are several, not joint. Except as expressly provided in this Agreement, neither Party shall have a right or power to bind the other Party without such Party's express written consent.

17.6 Nothing in this Agreement shall be construed to prevent the pass-through of third-party claims to a federal power marketing agency by RTO West under circumstances in which the federal power marketing agency directs actions of RTO West pursuant to RTO West enabling agreements to the extent such agreements provide for the payment of damage claims by such federal power marketing agency.

17.7 Nothing in this Agreement shall be construed to require the U.S. Department of Justice to defend any Parties to this Agreement except the Bonneville Power Administration.

17.8 Any claims which arise from events which occur during the term of this Agreement shall be governed by the terms of this Agreement, and, should this Agreement be terminated, the terms of this Agreement shall survive with respect to such claims.

17.9 Any use of the singular in this Agreement also includes the plural, any use of the plural also includes the singular, and references herein to "or" shall be deemed to be disjunctive but not necessarily exclusive.

17.10 RTO West agrees to offer to enter into a liability agreement substantially equivalent to this Limitation of Liability Agreement with any transmission, generation or distribution entity in the RTO West control area where such entity prefers the terms and conditions of this Limitation of Liability Agreement over the liability provisions of other agreements that are otherwise offered by RTO West. RTO West shall have the authority to make nonsubstantive amendments to this Agreement for the purpose of entering into such agreements.

17.11 In the event of a conflict between the provisions of this Agreement and the provisions of any other agreement between RTO West and the [Transmission, Generation or Distribution Entity], including, without limitation, a Generation Interconnection Agreement, a Load Integration Agreement or a Scheduling Coordinator Agreement, the provisions of this Agreement shall control. Nothing in this Agreement shall be construed to amend, limit or modify the obligations of RTO West under a Generation Interconnection Agreement, Generation Integration Agreement, Load Integration Agreement or Transmission Operating Agreement nor does this Agreement limit the remedies of a [Transmission, Generation or Distribution Entity] for failure of RTO West to perform such agreements.

17.12 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any person not a Party.

RTO WEST

By: _____

[TRANSMISSION, GENERATION OR
DISTRIBUTION ENTITY]

By: _____

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ATTACHMENT 1 DEFINITIONS

“Arbitration Procedural Rules” shall have the meaning specified in the RTO West Tariff.

“Bodily Injury” means bodily injury, death, mental anguish, mental illness, emotional upset, sickness or disease causing harm to any person including without limitation lost earnings, lost earning capacity, disability, loss of consortium, or other direct, general or consequential damages.

“Consequential Damages” means any indirect, consequential, exemplary, special, incidental or punitive damages including, without limitation, lost revenues or profits, the cost of substitute power or the cost of capital, even if such damages are foreseeable or the damaged party has been advised of the possibility of such damages and regardless of whether any such damages are deemed to result from the failure or inadequacy of any exclusive or other remedy.

“Contact Claim” means claims by employees of a Party, by employees of a Contractor or Subcontractor or by the general public for Bodily Injury or Property Damage caused by physical contact between any portion of an Electrical System and persons or property.

“Electric Disturbance” means any sudden, unexpected, changed or abnormal electric condition originating in an Electric System that causes damage.

“Electric System” means a single integrated electric power grid, usually characterized by ownership, rental, lease, control or operation by a single person or entity. An “Electric System” consists of electric distribution facilities or transmission facilities, or any combination thereof, and includes transmission lines, distribution lines,

substations, switching stations and all associated real property, rights-of-way and equipment for transmitting or distributing the flow of power. The term “Electric System” shall include any devices or equipment by which information is originated on an electric system, by which such information is transmitted and by which such information is received, either for information or for operation of the system. For purposes of this Agreement, the following shall apply: (i) the term “Electric System” shall also include generating plants, and, (ii) since RTO West will control the operation of the RTO West Transmission System upon commencement of RTO West operations, RTO West shall be deemed to operate an “Electric System” with respect to such Transmission System. The combination of Executing Transmission Owner generation, distribution, and transmission facilities, other than RTO West Controlled Transmission Facilities, shall constitute the Executing Transmission Owner’s “Electric System.”

“**Federal Power Act**” or “**FPA**” means the Federal Power Act, 16 U.S.C. § 824, et seq., as amended.

“**Federal Rules of Civil Procedure**” has the meaning specified in the RTO West Tariff.

“**FERC**” means the Federal Energy Regulatory Commission, or any successor thereto.

“**Generation Integration Agreement**” means an RTO West agreement with a generator that governs the interconnection or integration of the generator with the Electric System of a Party or RTO West.

“**Good Utility Practice**” means any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant

time period or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be any one of a number of the optimum practices, methods or acts to the exclusion of all others.

“Hazardous Substance” means any toxic or hazardous waste or substance that is regulated by local, state or federal statutes, regulations or ordinances.

“Load Integration Agreement” means an RTO West agreement substantially in the form of the agreement identified as a Load Integration Agreement and attached as a service agreement to the RTO West Tariff.

“NERC” means the North American Electric Reliability Council or its successor organization.

“Participating Transmission Owner” means any Transmission Owner that has executed a Transmission Operating Agreement with RTO West, which agreement remains in effect, as well as the successors and assignees of such owner.

“Property Damage” means damage to or destruction of tangible property, real or personal, but, unless specifically approved for in this Agreement, does not include damages for any indirect, exemplary, punitive, incidental or consequential loss or damage whatsoever, including, but not limited to, loss of profits or revenue on work not performed; for loss of use of or underutilization of the other Party’s facilities; or for loss of use of profits or revenue.

“RTO West Arbitration Committee” has the meaning specified in Article 5, section 5.14 of the Bylaws of RTO West.

“RTO West Board of Trustees” has the meaning specified in the Bylaws of RTO West.

“RTO West Controlled Transmission Facilities” means those transmission facilities specified in Exhibit D of the Transmission Operating Agreement signed by the Executing Transmission Owner, which are those transmission facilities over which RTO West shall exercise operational control as defined in the Transmission Operating Agreement.

“RTO West Controlled Transmission System” means the RTO West Controlled Transmission Facilities plus the RTO West Controlled Transmission Facilities as specified in all other Transmission Operating Agreements with Participating Transmission Owners.

“RTO West Transmission System” means the “Transmission Facilities” as set forth in all Transmission Operating Agreements with Participating Transmission Owners.

“RTO West Web Site” means an Internet site through which RTO West will make available to market participants transmission system data, system demand data, system conditions, auction data, aggregated market data, and other information as defined by RTO West.

“Transmission Operating Agreement” means an agreement between RTO West and the Executing Transmission Owner for transfer of control of RTO West Controlled Transmission Facilities. Any such agreement, including exhibits thereto, shall be considered a Transmission Operating Agreement, even if some of the rights and

obligations created therein differ in material respects from other Transmission Operating Agreements.

“**Willful Misconduct**” means an action taken or not taken by a Party, which action is knowingly or intentionally taken or failed to be taken, with intent that injury or damage would result therefrom or which action is wantonly reckless. Willful Misconduct does not include any act or failure which is involuntary, accidental, negligent or grossly negligent.

“**WSCC**” means the Western Systems Coordinating Council or its successor.

ATTACHMENT 2

ALTERNATIVE DISPUTE RESOLUTION PROVISIONS

1. Dispute Resolution

1.1 Applicability.

1.1.1 General Applicability. The provisions of this Section 1 (the “RTO West Liability Agreement Dispute Resolution Provisions”) shall apply to all disputes that arise under this Agreement, as provided in Section 15 of this Agreement, except as limited by law (including the rights of any party to file a complaint with FERC under the relevant provisions of the FPA).

1.1.2 Injunctive Relief. When a court so determines, use of the procedures under the RTO West Liability Agreement Dispute Resolution Provisions shall not be a condition precedent to a court action for injunctive relief.

1.2 Initiation of Arbitration.

1.2.1 Demand for Arbitration. RTO West or a Transmission, Generation or Distribution Entity may initiate arbitration by serving its demand for arbitration on the other disputing parties and the RTO West Arbitration Committee, which shall publish notice of the demand on the RTO West Web Site and by any other method the RTO West Arbitration Committee specifies.

1.2.2 Statement of Claim. Absent an agreement, RTO West or Transmission, Generation or Distribution Entity(ies) shall, within fifteen (15) days after serving an arbitration demand under Section 1.2.1, serve a written statement of claim to each other disputing party and the RTO West Arbitration Committee, which shall initiate the process specified in the RTO West Liability Agreement Dispute Resolution Provisions. The parties may agree to delay the commencement of arbitration to attempt to resolve their dispute through good-faith negotiations or mediation or for any other reason. The statement of claim shall set forth in reasonable detail (i) each claim, (ii) the relief sought, (iii) a summary of the grounds for such relief and the basis for each claim, and (iv) the parties to the dispute. Each other party to the dispute shall deliver its response (including identification of any additional necessary parties) within fifteen (15) days following receipt of the initial statement of claim or such longer period as the parties agree or the RTO West Arbitration Committee may permit following an application by the responding party. If any responding party wishes to submit a counterclaim with its response to the initial statement of claim, the responding party shall include the counterclaim in its response. When a responding party includes a counterclaim the initiating party may respond to that counterclaim within fifteen (15) days following receipt of the counterclaim. Any party named in a statement of claim that does not respond to the claim within the period specified in this Section 1.2.2 shall be deemed to have denied each claim against it. RTO West shall publish the statements of claim, responses,

and any counterclaims on the RTO West Web Site and by any other method the RTO West Arbitration Committee specifies.

1.3 Arbitration Process.

1.3.1 Selection of Arbitrator.

1.3.1.1 Selection of a Single Arbitrator. Within ten (10) days following submission of responding parties' responses and counterclaims, the parties shall select an arbitrator familiar with and knowledgeable about electric utility matters, including electric transmission and bulk power issues and related regulatory requirements. If the parties cannot agree upon an arbitrator, or do not agree on a means of selecting an arbitrator that differs from that set forth in this Section 1.3.1, the parties shall take turns striking names from a list of ten (10) qualified individuals supplied by the RTO West Arbitration Committee from its standing list, with a party chosen by lot first striking a name. The last remaining name not stricken shall be designated as the arbitrator. If that individual is unable or unwilling to serve (or if a party objects to the arbitrator serving on the basis of a disclosure under Section 1.3.2.1 within five (5) days of that disclosure), the individual last stricken from the list shall be designated and the process repeated until an individual is selected who is able and willing to serve. If a party issuing or named in a statement of claim served under Section 1.2.2 does not participate in the selection of an arbitrator within the time period specified under this Section 1.3.1.1, the remaining parties have the right to select the arbitrator without that party.

1.3.1.2 Party Option To Obtain Three-Arbitrator Panel. As an alternative to selecting one arbitrator under Section 1.3.1.1, any party may elect to constitute a three- (3-) member arbitration panel, and the other party or parties shall cooperate in the selection of the panel, subject to the following conditions:

(a) Any party or parties so electing shall be responsible for five-sixths (5/6th) of the costs of the arbitration (exclusive of each party's individual costs and attorneys' fees), regardless of the outcome of the arbitration, unless the disputing Parties agree to an alternate method of allocating costs. The remaining one-sixth (1/6th) of the costs shall be allocated to the party (or allocated in equal parts among the parties) that did not participate in the election to use a three-arbitrator panel.

(b) Each arbitrator shall be subject to the requirements of Section 1.3.2.

(c) Unless otherwise agreed by the parties, the three arbitrators shall be selected in the following manner: (i) the RTO West Arbitration Committee shall provide to the parties a list of fifteen (15) qualified individuals from its standing list; (ii) the parties shall take turns striking names from the list, with a party chosen by lot first striking a name; and (iii) the three (3) remaining names not stricken shall constitute the arbitration panel.

(d) The arbitration panel shall decide all matters by majority vote.

(e) All other procedures, rights and obligations set out in the RTO West Liability Agreement Dispute Resolution Provisions shall apply to the arbitration, and all references to the “arbitrator” shall also be deemed a reference to the three- (3-) member arbitration panel so chosen.

1.3.1.3 Communication with Candidates To Serve as Arbitrator. No party and no one acting on behalf of any party shall communicate on any matter relating to the dispute, including selection of an arbitrator, with any potential arbitrator identified on the list provided by the RTO West Arbitration Committee, except that RTO West staff, under the direction of the RTO West Arbitration Committee, may communicate with potential arbitrators concerning arrangements for an arbitration.

1.3.1.4 Arbitrator’s Jurisdiction. The arbitrator shall have the power to determine whether a dispute is subject to arbitration pursuant to the RTO West Liability Agreement Dispute Resolution Provisions.

1.3.2 Disclosures Required of Arbitrators.

1.3.2.1 Initial Disclosure Obligation. The selected arbitrator shall be required to disclose to the parties any direct financial or personal interest in the outcome of the arbitration. The arbitrator shall be required to disclose to the parties any additional interests, relationships, facts or circumstances, including:

- (a) any existing or past financial, business or professional interest or employment;
- (b) any relationship the arbitrator has with any party or its counsel, or with any individual whom the arbitrator has been told will be a witness; and
- (c) any family or personal relationship,

if they are likely to affect the arbitrator’s impartiality or might reasonably create an appearance of bias. All arbitrators shall make a reasonable effort to inform themselves of any such interests or relationships described above.

1.3.2.2 Ongoing Disclosure Obligations. The obligation to make disclosure in accordance with Section 1.3.2.1 is a continuing duty. If, after initiation of an arbitration under the RTO West Liability Agreement Dispute Resolution Provisions, the arbitrator must make a disclosure in accordance with Section 1.3.2.1, the arbitrator shall, at the time of disclosure, determine whether the information disclosed is grounds to disqualify the arbitrator from continuing with the arbitration. If the arbitrator determines that he or she is disqualified from continuing with the arbitration, the parties shall select a new arbitrator in accordance with Section 1.3.1.

1.3.3 Arbitration Procedures.

1.3.3.1 Procedural Rules. The RTO West Arbitration Committee shall adopt Arbitration Procedural Rules consistent with the RTO West Liability Agreement Dispute Resolution Provisions. The RTO West Arbitration Committee may modify the Arbitration Procedural Rules from time to time. In any case where there is a conflict between the Arbitration Procedural Rules and the RTO West Liability Agreement Dispute Resolution Provisions, the RTO West Liability Agreement Dispute Resolution Provisions shall govern. The arbitrator shall conduct the arbitration in accordance with the RTO West Liability Agreement Dispute Resolution Provisions and the Arbitration Procedural Rules, except as provided in Section 1.3.4.

1.3.3.2 Communication with Arbitrator. Except by agreement of or in the presence of all parties, no party and no one acting on behalf of any party shall communicate with the arbitrator concerning the arbitration outside of scheduled proceedings. Unless the parties agree otherwise or the arbitrator so directs, any written or electronic communication from any party to the arbitrator shall also be sent to all other parties and to the RTO West Arbitration Committee.

1.3.4 Modification of Arbitration Procedures. The parties may, by agreement of all the parties, modify the application of the Arbitration Procedural Rules for purposes of their specific dispute. Except where the terms of the RTO West Dispute Resolution Provisions specifically provide otherwise, the parties may not agree to modify any of the provisions set forth in the RTO West Dispute Resolution Provisions.

1.3.5 Rights Relating to Intervention.

1.3.5.1 Time for Intervention. RTO West or any Transmission, Generation or Distribution Entity not named as a party in a statement of claim initiating an arbitration as provided in Section 1.2.2 or in a counterclaim submitted in response thereto may apply to intervene in the arbitration as a party within thirty (30) days from publication of the statement of claim. Late intervention may be permitted in the arbitrator's discretion for good cause shown. Any intervening party must (i) accept the record as established before the intervention, including any procedural or substantive rulings or orders; (ii) proceed in accordance with any established schedule; and (iii) pay a share of the costs of arbitration as determined by the arbitrator, taking into account, among other things, the differing procedural rights of parties and the stage of the arbitration at which intervention is sought. In addition, any late-intervening party must not cause a conflict of interest for the arbitrator objectionable to any existing party.

1.3.5.2 Application and Order. An application to intervene shall be served on the Parties and the RTO West Arbitration Committee. Any such application shall demonstrate the applicant's satisfaction of the criteria stated in Section 1.3.5.4 below. Any objection by a party to the intervention request must be filed with the arbitrator, if an arbitrator has been selected, and served upon the applicant, the parties and the RTO West Arbitration Committee, within ten (10) days of service of the application. Promptly upon selection of the arbitrator pursuant to Section 1.3.1, the arbitrator will issue an order determining whether, based

upon the criteria established by Section 1.3.5.4 below, any applicant that has timely filed an application pursuant to Section 1.3.5.1 may intervene in the arbitration.

1.3.5.3 Intervenor Status and Rights of an Intervening Party. The arbitrator, in an order responding to an application to intervene, shall, upon the requisite showing as established by Section 1.3.5.4 below, grant party status to RTO West or a Transmission, Generation or Distribution Entity with full rights and responsibilities in relation to all other parties, provided that the arbitrator may condition party status as necessary to ensure that the rights of other parties are not unduly prejudiced or that the arbitration is not unduly delayed.

1.3.5.4 Requisite Showing. Subject to the provisions of Sections 1.3.5.1 and 1.3.5.3 RTO West or a Transmission, Generation or Distribution Entity shall be permitted to intervene as a party upon a showing that:

- (a) the applicant has an interest relating to the property or the transaction that is the subject of the arbitration;
- (b) the applicant is so situated that the disposition of the matter subject to arbitration may as a practical matter, impair or impede the applicant's ability to protect that interest; and
- (c) no existing party adequately represents the applicant's interest.

1.3.6 Timetable. Promptly after the appointment of the arbitrator, the arbitrator shall set a date for the issuance of the arbitration decision, which shall be no later than six (6) months (or such later date as the parties and the arbitrator may agree to) from the date of the appointment of the arbitrator, with other dates, including the dates for an evidentiary hearing or other final submissions of evidence, set in light of this date. The parties may, by agreement, modify any dates set by the arbitrator (other than the maximum time allowed for issuance of the arbitration decision). The arbitrator shall not change the date for the evidentiary hearing or other final submissions of evidence absent extraordinary circumstances. The arbitrator shall have the power to impose sanctions, including imposition of costs and dismissal of the proceeding, for dilatory tactics or undue delay in completing the arbitration proceedings.

1.3.7 Discovery Procedures. The Arbitration Procedural Rules shall include adequate provision for the discovery of relevant facts, including the taking of testimony under oath, production of documents and other things, the presentation of evidence, the taking of samples, conducting of tests, and inspection of land and tangible items. The nature and extent of such discovery shall take into account (i) the complexity of the dispute, (ii) the extent to which facts are disputed, (iii) the extent to which the credibility of witnesses is relevant to a resolution, (iv) the need to provide fair access to information by all parties when information has been obtained under statutory right by one or more parties from another party or parties outside the discovery process, and (v) the amount in controversy. The forms and methods for taking such discovery shall be as described in the Federal Rules of Civil Procedure, except as modified by agreement of the parties.

1.3.8 Confidentiality. The Arbitration Procedural Rules shall provide a means for protecting confidential information disclosed in the course of an arbitration under the RTO West Liability Agreement Dispute Resolution Provisions. Any information determined to be confidential in the course of an arbitration shall not be included in any published or publicly available summary or copy of the arbitration award.

1.3.9 Summary Disposition. The Arbitration Procedural Rules shall provide a means for summary disposition of an arbitration proceeding under the RTO West Liability Agreement Dispute Resolution Provisions. The arbitrator may grant summary disposition of the proceeding, in whole or in part, if there is no genuine issue of fact material to the decision. Any uncontroverted fact established through summary disposition shall be deemed established for the remainder of the proceeding. Any grant of summary disposition under Section 1.3.9 is subject to appeal pursuant to Section 1.5 after the final award in the proceeding has been issued.

1.3.10 Evidentiary Hearing. The Arbitration Procedural Rules shall provide for an evidentiary hearing with respect to matters not resolved through summary disposition under Section 1.3.9 above, unless all parties consent to the resolution of the matter on the basis of a written record. Hearing rules shall include provision for the cross-examination of witnesses.

1.3.11 Evidence. The Arbitration Procedural Rules shall include provisions addressing submission and admissibility of evidence. The arbitrator shall compile and certify a complete evidentiary record of the arbitration, which, upon completion, shall be available to any party at that party's request.

1.4 Awards, Remedies and Enforcement.

1.4.1 Award.

1.4.1.1 Award Based on Arbitrator's Decision. Except as provided below with respect to "baseball"-style arbitration, the arbitrator shall issue written reasons for the award, including findings of fact and conclusions of law. The arbitration award shall be based on (i) the evidence in the record; (ii) the terms of this Agreement; (iii) applicable United States federal law, regulations, treaties, and agreements and any relevant FERC decisions or then-applicable FERC standards or policies; (iv) other applicable law and (v) consideration of relevant awards in previous arbitration proceedings. The arbitrator may, but need not, treat previous awards under this Section 1.4.1.1 as determinative. The arbitrator's award shall be published and maintained, in searchable form, on the RTO West Web Site and by any other method the RTO West Arbitration Committee specifies. The RTO West Office of General Counsel shall maintain a copy of the complete award and written explanation.

1.4.1.2 Award Based on "Baseball"-Style Arbitration. In arbitration conducted "baseball"-style, the arbitrator shall issue written reasons for adopting one of the awards proposed by the parties. The arbitrator's choice among the proposed awards shall be based on (i) the evidence in the record; (ii) the terms of this Agreement; (iii) applicable United States federal law, regulations, treaties, and agreements and any relevant FERC decisions or

then-applicable FERC standards and policies; (iv) other applicable law; and (v) consideration of relevant awards in previous arbitration proceedings. If the arbitrator concludes that none of the proposed awards are consistent with the factors enumerated in (i) through (v) above or address all of the issues in dispute, the arbitrator shall specify how each proposed award is deficient and direct that the parties submit new proposed awards that cure the identified deficiencies. A summary of the disputed matter and the arbitrator's award shall be published on the RTO West Web Site and by any other method the RTO West Arbitration Committee specifies. An award under this Section 1.4.1.2 shall not be considered and may not be cited in any other proceeding.

1.4.1.3 Panel Decision by Majority Vote. When a panel of arbitrators is appointed pursuant to Section 1.3.1.2, a majority of the arbitrators must agree on the decision.

1.4.2 Remedies.

1.4.2.1 Arbitrator's Discretion. The arbitrator shall have discretion to grant the relief sought by a party, or to determine such other remedy as is appropriate, unless the parties agree to conduct the arbitration "baseball"-style. Except as limited by law, the arbitrator shall have the authority to award any remedy or relief available from FERC or any court of competent jurisdiction. Where this Agreement leaves any matter to be agreed upon between the parties at some future time and provides that in the absence of agreement the matter shall be resolved in accordance with the RTO West Liability Agreement Dispute Resolution Provisions, the arbitrator shall have authority to decide upon the terms of the agreement that, in the arbitrator's opinion, it is reasonable that the parties should reach, having regard to the other terms of this Agreement and the arbitrator's opinion as to what is fair and reasonable in all the circumstances. **[List sections of this Agreement to which this section applies.]**

1.4.2.2 "Baseball" Arbitration. If the parties agree to conduct the arbitration "baseball"-style, the parties shall submit to the arbitrator and exchange with each other their last best offers in the form of the award they consider the arbitrator should make, not less than seven (7) days in advance of the date fixed for the hearing, or by such other date as the arbitrator may decide. If a party fails to submit its last best offer in accordance with this Section 1.4.2.2, that party shall be deemed to have accepted the offer proposed by the other party. Except as provided in Section 1.4.1.2, the arbitrator shall be limited to awarding only one of the proposed offers and shall not determine an alternative or compromise remedy.

1.4.3 Costs. Except as otherwise provided in Sections 1.3.1.2, 1.3.5.1 and 1.3.6, the costs of the time, expenses, and other charges of the arbitrator shall be borne by the parties to the dispute, with each party on an arbitrated issue bearing its pro-rata share of such costs, and each party to an arbitration proceeding bearing its own costs and fees. If the arbitrator determines that a demand for arbitration or response to a demand for arbitration was made in bad faith, the arbitrator shall have discretion to award the costs of the time, expenses, and other charges of the arbitrator to the prevailing party.

1.4.4 Compliance. Unless the arbitrator's decision is appealed under Section 1.5, the disputing parties shall, upon receipt of the decision, immediately take whatever action is required to comply with the award, to the extent the award does not require regulatory

action. An award that is not appealed shall be deemed to have the same force and effect as an order entered by FERC or any court of competent jurisdiction.

1.4.5 Enforcement. Following the expiration of the time for appeal of an award pursuant to Section 1.5.3, any party may apply to FERC or any court of competent jurisdiction for entry and enforcement of judgment based on the award. Parties to an arbitration under the RTO West Liability Agreement Dispute Resolution Provisions shall be deemed to have consented that judgment upon the arbitration award may be entered in any federal or state court having jurisdiction.

1.5 Appeal of Award.

1.5.1 Basis for Appeal. A party may apply to FERC to hear an appeal of an arbitration award upon the grounds that (i) the arbitrator's decision is contrary to applicable law or regulation (including the FPA or FERC's then-applicable standards or policies); (ii) the arbitrator's decision is not supported by the findings or is otherwise arbitrary and capricious; (iii) the arbitrator failed to afford one or more parties to the dispute an opportunity for a fair and meaningful hearing; (iv) the arbitrator engaged in material misconduct in connection with the arbitration; (v) the arbitrator exceeded the authority conferred upon him or her under the RTO West Liability Agreement Dispute Resolution Provisions or as otherwise established by agreement of all the parties; or (vi) the arbitrator's decision is contrary to the provisions of Section 1.4.1. When there is concurrent jurisdiction between a court of competent jurisdiction and FERC, the party shall appeal to FERC. When FERC does not have jurisdiction, a party may appeal to a court of competent jurisdiction on any grounds provided by law.

1.5.2 Appellate Record. The arbitration process set forth in the RTO West Liability Agreement Dispute Resolution Provisions contemplates that FERC or the court of competent jurisdiction should afford substantial deference to the factual findings of the arbitrator. No party shall seek to expand the record before FERC or the court of competent jurisdiction beyond that assembled by the arbitrator, except (i) by making reference to legal authority that did not exist at the time of the arbitrator's decision or (ii) if such party contends the decision was based upon or affected by fraud, collusion, corruption, misconduct or misrepresentation.

1.5.3 Procedures for Appeals. Appeals shall, unless otherwise ordered by FERC or the court of competent jurisdiction, conform to the procedural limitations set forth in this Section 1.5.3.

1.5.3.1 Notice. If a party to an arbitration desires to appeal an award, it shall provide notice of appeal to the RTO West Board of Trustees, all parties, and the arbitrator within fourteen (14) days following the date of the award. The appealing party must likewise provide notice to the RTO West Arbitration Committee, which shall publish notice of the appeal on the RTO West Web Site and by other method the RTO West Arbitration Committee specifies. Within ten (10) days of the filing of the notice of appeal, the appealing party must file an appropriate application, petition or motion with FERC to trigger review under the FPA or with a court of competent jurisdiction. Such filing shall state that the subject matter has been the

subject of an arbitration under the RTO West Liability Agreement Dispute Resolution Provisions.

1.5.3.2 Evidentiary Record. Within thirty (30) days of filing the notice of appeal (or such period as FERC or the court of competent jurisdiction may specify), the appellant shall file the complete evidentiary record of the arbitration and a copy of the award with FERC or with the court of competent jurisdiction. The appellant shall serve copies of a description of all materials included in the certified evidentiary record.

1.5.4 Award Implementation. Implementation of the award shall be deemed stayed pending an appeal unless and until, at the request of a party, FERC or the court of competent jurisdiction to which an appeal has been filed issues an order dissolving, shortening or extending such stay.

1.5.5 Judicial Review of FERC Orders. FERC orders resulting from appeals shall be subject to judicial review pursuant to the FPA.

1.6 Exclusion of Liability. Neither the RTO West Arbitration Committee nor any arbitrator shall be liable to any party for any act or omission in connection with any arbitration conducted under the RTO West Liability Agreement Dispute Resolution Provisions.